

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IRA MERCER,

Plaintiff,

-against-

NEW YORK CITY POLICE DEP'T-47
PRECINCT DETECTIVE CHRISTOPHER
SALLY, et al.,

Defendants.

24-CV-2803 (JGLC)

ORDER OF SERVICE

JESSICA G. L. CLARKE, United States District Judge:

Plaintiff, who is appearing *pro se*, brings this action invoking the court's federal question jurisdiction and asserting claims arising out of his arrest and detention based on an allegedly invalid arrest warrant. The Court construes Plaintiff's complaint as asserting claims under 42 U.S.C. §§ 1983 and 1985, as well as claims under state law. By order dated June 24, 2024, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all

¹Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Detective Christopher Sally, Police Officer Sutton, District Attorney Darcel D. Clark, and Court Attorney Referee Susan Schieifer Levy through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each defendant. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue a summons for Defendants Detective Christopher Sally, Police Officer Sutton, District Attorney Darcel D. Clark, and Court Attorney Referee Susan Schieifer Levy, complete the USM-285 form with the address for each defendant, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is also directed to mail an information package to Plaintiff.

Plaintiff may receive court documents by email by completing the attached form, [Consent to Electronic Service](#).²

SO ORDERED.

Dated: June 27, 2024
New York, New York

A handwritten signature in blue ink that reads "Jessica Clarke". The signature is written in a cursive, flowing style. It is positioned above a solid black horizontal line.

JESSICA G. L. CLARKE
United States District Judge

² If Plaintiff consents to receive documents by email, Plaintiff will no longer receive court documents by regular mail.

SERVICE ADDRESS FOR EACH DEFENDANT

1. Detective Christopher Sally
New York City Police Department 47th Precinct
4111 Laconia Avenue
Bronx, NY 10466
2. Police Officer Sutton, # 9820
New York City Police Department 47th Precinct
4111 Laconia Avenue
Bronx, NY 10466
3. Darcel Clark
Bronx County District Attorney
Bronx District Attorney's Office
198 E. 161 Street
Bronx, NY 10451
4. Susa Schieifer Levy
Court Attorney Referee
Bronx County Family Court
900 Sheridan Avenue
Bronx, NY 10451-3317

CONSENT TO ELECTRONIC SERVICE

I hereby consent to receive electronic service of notices and documents in my case(s) listed below. I affirm that:

1. I have regular access to my e-mail account and to the internet and will check regularly for Notices of Electronic Filing;
2. I have established a PACER account;
3. I understand that electronic service is service under Rule 5 of the Federal Rules of Civil Procedure and Rule 5.2 of the Local Civil Rules, and that I will no longer receive paper copies of case filings, including motions, decisions, orders, and other documents;
4. I will promptly notify the Court if there is any change in my personal data, such as name, address, or e-mail address, or if I wish to cancel this consent to electronic service;
5. I understand that I must regularly review the docket sheet of my case so that I do not miss a filing; and
6. I understand that this consent applies only to the cases listed below and that if I file additional cases in which I would like to receive electronic service of notices of documents, I must file consent forms for those cases.

Civil case(s) filed in the Southern District of New York:

Please list all your pending and terminated cases to which you would like this consent to apply. For each case, include the case name and docket number (for example, John Doe v. New City, 10-CV-01234).

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address

Date

Signature